

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,  
RESPONDENT**

**vs.**

**SEAN A. PRICE,  
APPELLANT**

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DOCKET NUMBER WD76385

DATE: JUNE 3, 2014

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Appeal from:

The Circuit Court of Boone County, Missouri  
The Honorable Dorothea Christine Carpenter, Judge

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Appellate Judges:

Division One: Joseph M. Ellis, P.J., Karen King Mitchell, J. and Anthony Rex Gabbert, J.

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Attorneys:

Daniel J. McPherson, for Respondent

Craig A. Johnston, for Appellant

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI, RESPONDENT**

**v.**

**SEAN M. PRICE, APPELLANT**

WD76385

Boone County, Missouri,

Before Division One Judges: Joseph M. Ellis, P.J., Karen King Mitchell, J. and Anthony Rex Gabbert, J.

In 2010, Appellant Sean Price was indicted on two counts of first-degree statutory sodomy. Prior to trial, Appellant filed “Defendant’s Waiver of Jury Sentencing,” which stated that Appellant, “by and through counsel” was “waiv[ing] his right to jury sentencing in this case.” Defense counsel filed the written waiver during a pre-trial conference at which Appellant was present.

In 2013, a jury found Appellant guilty as charged. The trial court entered its judgment accordingly and subsequently sentenced Appellant to two concurrent twenty-five-year prison terms. Appellant did not object at the sentencing hearing or in any post-trial motion to the court assessing his punishment.

Appellant now appeals from his conviction of two counts of statutory sodomy in the first degree and the sentence that resulted therefrom. Appellant contends that the trial court plainly erred when it sentenced him because the record does not reflect, with unmistakable clarity, that he knowingly, intelligently, and voluntarily waived his right to jury-recommended sentencing.

**AFFIRMED**

**Division One holds:**

1. The trial court did not plainly err in failing to question Appellant on the record about his waiver of jury-recommend sentencing because nothing in § 557.036 requires such a waiver be made on the record. Rather, as is required by § 557.036, Appellant waived his right to jury-recommended sentencing by filing a written waiver prior to *voir dire*. Thus, no manifest injustice resulted from the trial court assessing his punishment.

2. The trial court did not plainly err in assessing Appellant’s punishment because Appellant further waived his right to jury-recommended sentencing by failing to invoke his statutory right to have a jury assess punishment prior to the trial court sentencing him.

Opinion by Joseph M. Ellis, Judge

Date: June 3, 2014

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